



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

NOV 03 2008

George Pavlou, Acting Director
Emergency and Remedial Response Division
United States Environmental Protection Agency
Region II
290 Broadway
New York, New York 10007-1866

Re: Removal Action Site Amendment Request
Contamination along Cheesequake Creek Inlet, Raritan Bay

Dear Mr. Pavlou:

The New Jersey Department of Environmental Protection (DEP) submits the northern jetty area on the Cheesequake Creek along Raritan Bay in Sayreville, Middlesex County for removal action consideration under the federal Comprehensive Environmental Response and Cleanup Liability Act (CERCLA). This request is an amendment to an April 24, 2008 removal request for the nearby sea wall portion of the Margaret's Creek and Laurence Harbor Seawall site located just south in Old Bridge, Monmouth County.

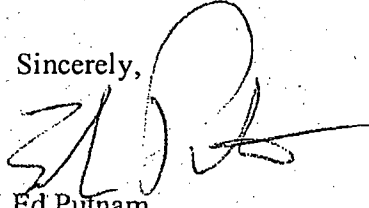
An inspection by EPA and DEP identified the Cheesequake Creek jetty as exhibiting similar properties to contamination found along the Laurence Harbor Seawall. DEP is concerned that limited site access restrictions to the private and public areas of this jetty location will not adequately protect public health and the environment. This is due to the appearance of uncontrolled slag contamination found during the recent inspection at the surface likely containing elevated levels of lead that remains accessible to visitors to the area in Sayreville.

NJDEP specifically recommends that the U.S. Environmental Protection Agency (EPA) evaluate a removal action to address lead waste associated with fill incorporated in the jetty along Cheesequake Creek. Sediment in the Raritan Bay and Cheesequake Creek also would need to be evaluated and removed, if necessary, as part of this action to avoid recontamination issues.

Removal of the lead contamination will provide greater protection to residents and visitors who frequent the Cheesequake Creek inlet location along the Raritan Bay.

If you have any questions or would like to discuss these issues in further detail, please contact Fred Mumford, Superfund coordinator in the Publicly Funded Remediation Element, at (609) 984-3074.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Putnam', with a large, stylized initial 'E' and 'P'.

Ed Putnam
Assistant Director
Publicly Funded Remediation Element
Site Remediation Program

C: Joseph Rotola, Branch Chief, Removal Action Branch, USEPA Region II
James Brownlee, Director, Consumer and Environmental Health, NJDHSS
Michael Jacobs, Business Administrator, Old Bridge Township
Jeff Bertrand, Administrator, Sayreville Borough

failure to provide DEP with funding for past investigative work or to sign an Administrative Consent Order (ACO) for remedial activities.

Site History

The Margaret's Creek and Laurence Harbor Seawall site occupies at least 60 acres off of Route 35.

In September 1972, DEP was advised by a local environmental commission member that lead bearing waste material was being disposed of along the Laurence Harbor beach front on Raritan Bay. By letter to DEP dated December 7, 1972, NL acknowledged that "slag which consists of non-recoverable low yield metallic waste from blast furnace and blast furnace mbble are disposed of by Liberty Trucking Company at their property in Madison Township, Route 35, New Jersey." Madison Township is now known as Old Bridge Township. NL used battery plates from lead/acid storage batteries as the principal feed material for the blast furnace located at its plant in Perth Amboy.

In 2006, the Margaret's Creek portion of the site was proposed for acquisition by the State of New Jersey under the Green Acres Program from Old Bridge Township, the property owner. During a preliminary assessment phase of the Green Acres review process, historical aerial photos revealed the filling of approximately 20 acres of the site by 1974.

On December 13, 2006, a limited site investigation was conducted to visually characterize fill material via excavation of test pits. Waste materials were evident in numerous locations across the surface of the site, including large quantities of what appeared to be shredded automotive battery casings and refractory brick and slag. On March 14, 2007, the Department collected soil samples at the portion of the Margaret's Creek portion of the site. Lead was detected at concentrations ranging from 701 to 146,000 parts per million (ppm), which are above the state's unrestricted use and restricted use Soil Cleanup Criteria.

On May 23, 2007 the Department conducted further soil sampling. Antimony was detected at concentrations above state criteria, ranging from 17.8 ppm to 12,900 ppm. Arsenic was detected at concentrations above state criteria, ranging from 23.6 ppm to 3,350 ppm. Lead was detected at concentrations above state criteria, ranging from 647 ppm to 142,000 ppm. On July 24, 2007 the Department conducted its most recent round of soil sampling in a preliminary attempt to identify the boundary of contaminated soils in public areas.

In addition to the removal action request, DEP has determined that it is necessary to conduct a remedial investigation at the site to fully delineate the nature and extent of the problem presented by the lead-bearing waste. Upon completion of the remedial investigation, it will be necessary to implement a remedial action to address the discharges at the site.

On June 10, 2008, during a site visit, EPA and DEP identified the Cheesequake Creek jetty as exhibiting similar properties to contamination found along the Laurence Harbor Seawall. DEP is concerned that limited site access restrictions to the private and public areas of this jetty location will not adequately protect public health. This is due to the appearance of uncontrolled slag contamination found at the surface likely containing elevated levels of lead that remains accessible to visitors of the area in Sayreville. Discussions ensued with local officials from Sayreville Borough and DEP formally requested removal action at this location on November 3, 2008.

The substances found at the site are hazardous substances pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11b.

Laurence Harbor Interceptor Sewer Project

DEP also approved a Limited Site Investigation Report and Remedial Action Workplan (SIR/RAW) on January 16, 2008 for the Laurence Harbor Interceptor Sewer project as part of a basis for action approval. This project is located in the Margaret's Creek area of the overall site. Implementation of the proposed remedy contained in the SIR/RAW to remove lead contaminated soil within a limited portion of a pipeline easement at this site enabled construction of a sanitary sewer for the Old Bridge Municipal Utilities Authority to proceed in a timely manner. The project was completed on time, which is noteworthy as the lead contamination issue came to light on the eve of bid opening by the local utilities authority.

Enforcement Background

DEP issued NL Industries a directive dated June 17, 2008 requiring that it conduct a remedial investigation and propose and implement an approved remedial action to remediate the discharges at the site under an Administrative Consent Order. Christopher R. Gibson, Archer & Greiner, on NL Industries, Inc.'s behalf, responded in a letter dated July 21, 2008 and submitted a Remedial Action Workplan dated May 2008. However, DEP deemed the submitted Remedial Action Workplan as inadequate in satisfying the directive. Specifically, DEP directed NL to conduct a remedial investigation and propose and implement an approved remedial action to remediate the discharges at the contaminated site pursuant to N.J.A.C. 7:26E.

The Remedial Action Workplan presented by NL was deficient in that it did not include delineation of the contaminants at the site as required. The workplan relied on several investigations that were not designed to fully delineate the contaminants and, by NL's own admission within the workplan, were limited. The workplan relied on this information to conclude that the contaminants at the site are limited to surficial soils and confines the remediation proposed to surficial soils. While DEP had no objection to NL implementing its Remedial Action Workplan as an interim remedial measure, with appropriate access from Old Bridge Township, the workplan's objectives fell short of the directive's mandates.

Given that NL failed to adequately address the directive, the site was referred to the DEP's Publicly Funded Remediation Element for its review and action.